

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15917 of Drs. David and Martha Gibbons, pursuant to 11 DCMR 3107.2, for a variance from the side yard requirements (Subsection 405.9) to construct a deck addition to a detached single-family dwelling in an R-1-B District at premises 6669 Barnaby Street, N.W. (Square 2356, Lot 32).

HEARING DATE: March 9, 1994
DECISION DATE: April 6, 1994

ORDER

SUMMARY OF EVIDENCE OF RECORD:

1. The subject site is located at 6669 Barnaby Street, N.W. on the south side of the street, between Worthington Street and Arcadia Place, N.W. The site is zoned R-1-B.

2. The site is rectangularly shaped with a width of 65 feet and a depth of 120 feet. It comprises 7,800 square feet of land area and is improved with a two-story, single-family, detached dwelling. The site abuts single-family dwellings to the west, east and south (rear). It does not abut a public alley.

3. The existing dwelling was constructed in 1938 and has a footprint of 2,017.95 square feet with 14-foot wide side yards and a rear yard measuring over 25 feet in depth.

4. The site is located in the R-1-B zone district. This zone district permits matter of right development of single-family residential uses for detached dwellings with a minimum lot area of 5,000 square feet, a minimum lot width of 50 feet, a maximum lot occupancy of 40 percent, a maximum height of three stories/40 feet, and a minimum side yard width of eight feet.

5. The applicants are proposing to construct a 294.3 square foot (nine feet by 27.7 feet) deck addition to the rear west side of the existing dwelling. The proposed deck would reduce the property's west side yard width by nine feet. The applicants' proposal would require an area variance of three feet from the eight foot side yard width requirement of the R-1-B zone district.

6. One of the applicants testified that the position of the proposed deck has been partially dictated by an extreme slope of the subject lot from the front to the rear and from a storm drain which runs across the back yard approximately five feet from the rear of the existing dwelling. The applicant further testified that decks of this type are in harmony with the residential character of both the existing dwelling and the neighborhood. The

proposed deck would dramatically enhance the aesthetic value of the existing dwelling with minimal or no impact upon the adjoining property. The applicant stated that the purpose of the proposed deck would be to serve as an outdoor extension of the kitchen for dining and entertaining.

7. The applicants' architect testified that the alternative of constructing the deck at the rear of the existing dwelling is not a viable option because the tremendous amount of moisture from the stream would create heaving in the feature and destroy the deck. The architect also testified that construction of a deck at the rear of the dwelling could cause potential damage to the stream itself. He noted that the concern of the neighbors that the stream would not be disturbed was part of the discussion when ANC 3G was considering the applicants' proposal at its public meeting.

8. By report dated February 28, 1994, and through testimony at the public hearing, the Office of Planning (OP) recommended denial of the application. The OP stated that the subject property is similar to other properties within the immediate neighborhood and does not exhibit any uniqueness or extraordinary situation or condition that is inherent in it. In the opinion of OP, the applicants are not faced with a practical difficulty in their ability to reasonably develop the property in accordance with the Zoning Regulations. The applicants could construct a six-foot wide deck on the east side of the dwelling as a matter of right. Therefore, the Office of Planning believes that the applicants would not be deprived of the reasonable use of the subject property if this application is not granted by the Board. The OP further stated that although the proposal would not generate substantial adverse impacts on surrounding properties, the Office of Planning believes that the intent and purpose of the R-1-B zone district would be impaired relative to the negative impact on the minimum side yard requirements, and that the integrity of the Zoning Regulations would be compromised.

9. By report dated February 15, 1994, the Advisory Neighborhood Commission (ANC) 3G stated that it has voted not to oppose the applicants' request for a side yard variance. With its report, the ANC also has submitted to the record several letters and petitions by the residents of the neighborhood both in support and in opposition to the application. The ANC was not represented at the hearing.

10. No one appeared at the hearing to testify either in support or in opposition to the application.

11. The Board at the end of the public hearing left the record open to receive the applicants' proposed findings, a cross section with accurate topography showing the dwelling in relationship to the location of the creek and the area beyond the creek, a

site plan showing vegetation and accurate location of the creek, and anything else that would help the applicants to demonstrate that they are faced with a practical difficulty. No additional material was submitted by the applicant after the hearing.

FINDINGS OF FACT:

Based on the evidence of record, the Board finds the following:

1. The property is similar to other properties within the immediate neighborhood.
2. There are other alternatives under which the applicants can construct a deck on the property as a matter of right.

CONCLUSIONS OF LAW AND OPINION:

Based on the evidence of record, the Board concludes that the applicants are seeking a variance from the side yard requirements to construct a deck addition to a detached single-family dwelling in an R-1-B District.

Granting such a variance, requires a showing through substantial evidence that requiring strict compliance with the Zoning Regulations will create an undue hardship upon the owners in their efforts to make reasonable use of the property. The hardship must arise out of some unique or exceptional condition of the property such as, exceptional, narrowness, shallowness, shape or topographical condition. In addition, the Board must find that granting the application, will not be of substantial detriment to the public good and will not substantially impair the intent, purpose and integrity of the zone plan.

The Board concludes that the applicants have not met this burden of proof. The applicants have failed to demonstrate how complying with the Zoning Regulations will create a practical difficulty for them in making reasonable use of their property.

The applicants have not submitted any evidence to the Board persuasive enough to show that the property itself has an exceptional condition.

The Board further concludes that granting the application will be of substantial detriment to the public good and will substantially impair the intent, purpose and integrity of the zone plan.

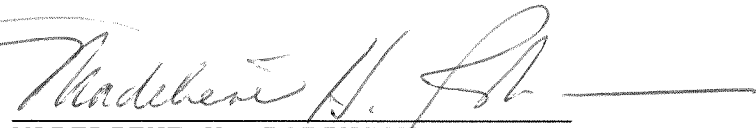
The Board has accorded the ANC the "great weight" to which it is entitled. In accord with the above analysis, the application is hereby DENIED.

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VOTE: 5-0 (Craig Ellis, Laura M. Richards, Maybelle Taylor
Bennett, George Evans and Angel F. Clarens to
deny).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


MADELIENE H. ROBINSON
DIRECTOR

FINAL DATE OF ORDER: SEP 15 1995

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE
EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE
SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF
ZONING ADJUSTMENT."

ORD15719/ET/LJP

GOVERNMENT OF THE DISTRICT OF COLUMBIA
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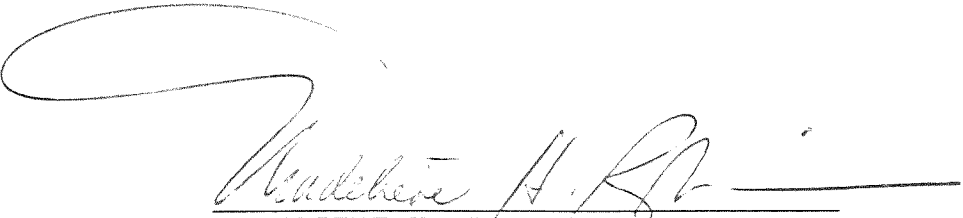
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As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on SEP 15 1995 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Drs. David
& Martha Gibbons
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Anne M. Renshaw, Chairperson
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P.O. Box 6252
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MADELIENE H. ROBINSON
Director

DATE: SEP 15 1995